



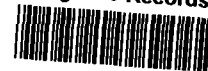
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
111 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-3507

FEB 09 2004

By Facsimile and Overnight Mail

James E. Meason, Esq.
113 W. Main Street
Rockton, IL 61702-2416

EPA Region 5 Records Ctr.



216802

C-14J

Re: Improper Land Use Issues - Area 7 - Southeast Rockford Groundwater Superfund Site -
Rockford (Winnebago County) IL

Dear Mr. Meason:

It has come to the attention of the United States Environmental Protection Agency (US EPA) and the Illinois Environmental Protection Agency (IL EPA) that your client, Mr. Glen W. Ekberg of Rockford, Illinois, is currently engaged in (or is directly arranging for or openly condoning) dumping or earth moving activities in the same area of the above referenced National Priorities List, 40 C.F.R. Part 300, Appendix B, Superfund Site, where he has previously been advised not to perform (or allow the performance of) such activities. Such actions may be a violation of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Sections 104(e)(1)-(5) and 106(b)(1), 42 U.S.C. §§ 9604(e)(1)-(5) and 9606(b)(1).

Mr. Ekberg was originally notified of US EPA concern regarding his property as a Superfund Site in October 1993. Between November 2000 and February 2001, and then again in November 2002 and January 2003, in a series of letters, information requests and a notice of violation of State of Illinois solid waste disposal laws, US EPA and IL EPA have repeatedly advised Mr. Ekberg of their serious concern regarding his earth-moving, dumping and other activities at or in the area immediately adjacent to Area 7 of the Superfund Site. Further, the Agencies continue to observe and receive information suggesting that Mr. Ekberg is knowingly allowing or encouraging other individuals to perform the same activities at the Site. Between June 2003 and January 2004, IL EPA personnel continued to observe and record: 1) instances of fill material being placed and distributed on the Area 7 Site property, 2) the disturbance of areas determined to be of high risk in terms of soil contamination, 3) the unauthorized placement of fill material in the proximity of an IL EPA groundwater monitoring well (MW-112), and 4) the presence of earth moving excavation equipment and other vehicular traffic indicating the insufficiency of the gate installed at the Groom Industries entrance point to the Site property. US EPA has explained in prior correspondence that these activities interfere with the Agencies' response action at this Site and cannot continue.

As you know, Mr. Ekberg was notified, in a November 2000 letter from US EPA, that the Area 7 portion of the Southeast Rockford Groundwater Superfund Site is defined as the area essentially located within the following boundaries: the Illinois Central Gulf and Chicago Northwestern Railroad tracks on the north, Sandy Hollow Road on the south, Alpine Road on the

east and Twentieth Street to the west. The most immediate area of concern is north of Ekberg Park and west of groundwater monitoring well MW-112. The entire Site area has been tested, sampled for soil, water and soil vapor components, and undergone comprehensive scientific and technical review since the 1991-1994 Remedial Investigation (RI). In June 2002 a 153-page Record of Decision (ROD) was issued containing results of the RI and subsequent Feasibility Study (FS), a Proposed Plan for Remedial Action and a Responsiveness Summary.

Mr. Ekberg's actions are directly interfering with the state and federal Agencies' ability to perform a successful and efficient clean up of Area 7. Ideally, landowners such as Mr. Ekberg should cooperate with our clean up efforts. However, at the very least, it is necessary that Mr. Ekberg refrain from interfering with US EPA response actions. We insist that he take the following steps: (1) stop placing (or allowing easy access for the placement of) fill and other materials in the portions of his property that lie within Area 7 (defined above), and on either side of the creek which flows along the park's northern border (or in any way that would impede the flow of the creek), or near the rail road tracks running alongside the creek. (2) It is also necessary that he forbid and properly restrict access from other parties to the portion of his property that lies within Area 7. **(3) It is essential that the dumping of soil, fill, debris, concrete, asphalt and any other objects or items cease immediately in and around the immediate vicinity of Area 7.** No one should be disturbing, adding to or removing any soil or water in the Area 7 location. (4) It is also essential that the grade of the land in the above mentioned area of concern (north of Ekberg Park and west of groundwater monitoring well MW-112) not be altered for the time being, until the nature and extent of specific contamination may be determined and an appropriate remedy implemented. Mr. Ekberg's current activities at Area 7 may serve to inhibit IL EPA's planned 2004 sampling and investigation. (5) IL EPA has placed groundwater monitoring wells in Area 7. **These wells must be left alone, and the surrounding surface area must be undisturbed.**

The soil, water and other materials within Area 7 may all be contaminated. These prohibitions are designed to prevent cross-contamination of pollutants, migration off-site of hazardous substances, and any factors that may add to the overall problems at the Superfund Site. In the case of the dumping of fill and other materials at Mr. Ekberg's portion of the Area 7 Site, US EPA and IL EPA have no way of knowing what contaminated materials may be adding to the problems of the overall Site, nor what contamination may accidentally be spread around a broader area and thus made more difficult to test, treat or remove. Mr. Ekberg's actions may have also released hazardous substances from the Area 7 portion of the Site.

Finally, it is essential that US EPA and IL EPA be informed as much as possible about the content of the materials that Mr. Ekberg has recently brought or allowed to be brought to the portion of his property that is a part of Area 7. If he cannot provide manifests and quality assured samples of the materials left at Area 7 of the Superfund Site, then US EPA and IL EPA will need to take samples for analysis as soon as can be arranged. IL EPA is taking the lead in the clean up at the Site and Mr. Ekberg should arrange a sampling schedule with IL EPA staff. The contact at IL EPA is Mr. Thomas C. Williams, Project Manager, telephone number:

815/223-1714. We would look forward to Mr. Ekberg's cooperation in this matter.

IL EPA has also noted some difficulty in securing access from Mr. Ekberg for necessary Superfund Remedial Investigation work at the Area 7 portion of the Site. In December 2003, the Illinois Attorney General's office contacted Mr. Ekberg concerning access and has yet to receive a response. As Mr. Ekberg has previously been warned, if he continues to fail to provide EPA access to Area 7, and otherwise interferes with EPA's Superfund cleanup activities at Area 7, EPA may issue an administrative order under CERCLA Section 104(e), requiring access [and cooperation] and noninterference with EPA's response actions. Failure to comply with such an order would subject Mr. Ekberg to civil penalties up to \$27,500 per day of noncompliance under CERCLA Section 104(e).

US EPA and IL EPA are willing to meet with you and your client to discuss the seriousness of this matter and recommend necessary steps to avoid further problems of this nature. Both agencies strongly advise that Mr. Ekberg consider and follow the steps outlined within this letter to remedy this situation. In the event that Mr. Ekberg chooses to continue to follow his present course of actions involving the Site, I would caution you that he may face further legal action based on a probable violation of CERCLA Section 107(c)(1)(D)(2), 42 U.S.C. § 9607(c)(1)(D)(2), for any of his actions which further and expand any or all costs to be expended in the clean up of the Area 7 portion of the Site.

A meeting may be arranged through either Mr. Thomas C. Williams of IL EPA, or through contact with Mr. Russell Hart of US EPA (312/886-4844), or you may contact me at 312/886-6613. If we cannot come to an accord and agreement on these matters of access and proper control of the Area 7 Superfund Site, then it may be necessary for US EPA and IL EPA to seek a federal court order restraining Mr. Ekberg from the activities I have mentioned.

Very truly yours,



Thomas Turner
Associate Regional Counsel

cc: R. Hart, RPM (SR-6J)
US EPA

M. Reed, Esq/F. Biros, Esq.
US Dept. of Justice - ENRD/EES

T. Williams, Project Manager
IL EPA - LaSalle, IL Office

P. Jagiello, Esq.
IL EPA Law Section

E. Wallace, Esq.
IL AG Office



U. S. Environmental Protection Agency



Office of Regional Counsel Region 5

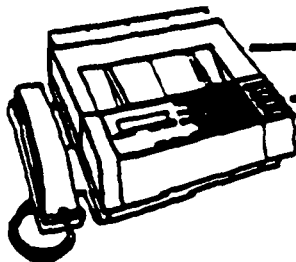
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Date: February 9, 2004
Fax Recipient: JAMES E. MEASON, ESQ.
Dept/Agency: 113 W. MAIN STREET, ROCKTON, ILLINOIS
Fax number: 815/624-4906

Fax Sender: Tom Turner, Esq.
Dept/Agency: U.S. EPA, Office of Regional Counsel, Region 5
Telephone: 312/886-6613
Fax Number: 312/886-0747
Subject: Actions of Mr. Glen W. EKberg at Area 7 - SE Rockford
Groundwater SF Site

Number of Pages: 5 pp. (total)

Comments: Please see attached letter.



Tom Turner
US EPA, ORC, R5

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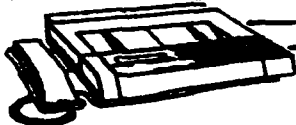
U. S. Environmental Protection Agency



Office of Regional Counsel
Region 5

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Groundwater SR Site
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Tom Turner
US EPA, ORC, AS

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
17 WEST JACKSON BOULEVARD
CHICAGO IL 60604-3590

FEB 09 2004

By Facsimile and Overnight Mail

REPLY TO THE ATTENTION OF

James E. Meason, Esq.
113 W. Main Street
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